

REMARKS

Careful consideration has been given to the Office Action of June 23, 2010, and it is respectfully requested that the application as amended be reexamined. It is also requested that this paper be deemed a petition to the Director of the U.S. Patent & Trademark Office to extend the time for reply to the Office Action of June 23, 2010 from September 23, 2010 to October 23, 2010. Submitted herewith is a check for \$130.00 to cover the cost of the extension.

The claims now in the application have been amended [Claim 17 amended since the prior amendment of August 4, 2008] to limit them to particular forms of gum arabic of a particular, specified minimum size. For reasons which will be discussed below, applicant believes that the claims as now amended avoid the substantive rejections under 35 U.S.C. § 102(b) and § 103(a). Moreover, the claims are believed to be in compliance with 35 U.S.C. § 112, Para. 1. The current amendments to claim 17 remove the objectionable limitation regarding “the absence of an octenylsuccinic acid treatment step” and thereby renders moot the new matter rejection. The current amendment to claim 17 and claims dependent therefrom is believed to avoid any objection to a lack of, or failure to comply with the requirements for “a written description” set forth in M.P.E.P. § 2173.05(i).

Support for claim 17 as currently amended is found in the specification as follows:

The term “having an improved emulsifying ability”, which originally appeared in the preamble has been rewritten into the body of the claim. In addition, the term “compared with the starting unmodified gum arabic” has been added in order to avoid the rejection under 35 USC § 112. Support for this limitation is found at page 13, lines 11-12 of the specification. The term “and preventing particles of the resulting modified gum arabic from melting or adhering to other particles of the modified gum arabic and form resulting masses” has been added at the ends of claim 17 in order to avoid the rejection under 35 USC § 103(a). Support for this limitation is found at page 10, lines 20-24 of the specification.

Additionally, Claims 26-31 are canceled herein, thereby mooting the rejection thereof under § 102 (b) based on the Ward, et al and Wilson, et al references.

Applicant notes the rejection of claims 17-25 under 35 U.S.C. § 102(b) as allegedly being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as allegedly being obvious from Wilson ('378). These rejections, insofar as they may be applied to newly amended claim 17, and dependent claims 18-25 are all respectfully traversed.

With respect to the rejection of claims 17-25 under 35 U.S.C. § 103(a) as obvious over Wilson et al., this rejections is respectfully traversed.

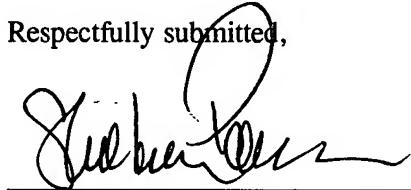
The Examiner has accepted and conceded that the method of claims 17, et seq. uses a different form of modified gum arabic than does Wilson, et al (note page 9, lines 6-7 of the Office Action.) Specifically, Wilson uses, as the unmodified gum arabic, a powdered gum arabic which is then modified. On the other hand, the present invention uses aggregated, beaded, crushed and granulated gum arabic having an average particle diameter no less than 1 mm. Thus, the present invention is not only different from that of Wilson, it is different in an unexpectedly advantageous, and therefore unobvious manner. According to the specification at pages 10, lines 20-24 and page 7, line 20 to page 8, line 1, the method of the present invention improves the emulsifying ability to modify gum arabic, while at the same time, preventing the gum arabic to be modified from melting or allowing adjacent particles thereof from adhering to each other to thereby form undesirable masses. This is achieved by the process as recited in claim 17, where aggregated, beaded, crushed and granulated gum arabic of average particle diameter of not less than 1 mm are used under the conditions recited in claim 17. In contrast, as shown in Comparative Example 1 in the Experimental Data in the Declaration previously submitted, if the powdered gum arabic having an average particle diameter of less than 1 mm is heated under the conditions set forth in claim 17, the resulting product is heavily caked and completely solidified into a syrupy mass. Accordingly, when a powdered gum arabic having an average particle diameter of less than 1mm is heated under the conditions of the presently claimed invention, there results the formation of significant masses by dissolution of the material or adherence of particles to one another. In contrast, when the starting gum arabic of the invention is used in the process as defined in claim 17 is used, there is a substantial elimination of the formation of the undesirable masses. There results are clearly unexpected from the prior art and constitute a *prima facie* case of non-obviousness.

To summarize, although Wilson does disclose heating a powder of gum arabic, it does not disclose or

even remotely suggest any particular particle size of gum arabic. In addition, Wilson does not suggest using a particle with a diameter of not less than 1mm to prevent the gum arabic from melting or adhering to itself to form masses during and as a result of the process. This, it is respectfully submitted that claims 17 and dependent claims 18-25 are unobvious and patentable over Wilson.

In view of the forgoing amendments, arguments and the previously annexed Rule 132 Declaration, applicant submits that the claims are in compliance with 35 U.S.C. § 112, free of the cited art and accordingly, in condition for allowance. Favorable reconsideration of the application is earnestly solicited.

Respectfully submitted,



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October 26, 2010

Date of Deposit

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Signature

October 23, 2010

Date of Signature